IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 266 OF 2006

Shamsuddin Haji Abdul Shakur
& ors. ..Appellants

Vs.

Hafiz Ataur Raheman Abdullah & ors. ..Respondents

Mr. Harshad Palwe for the Appellants.

CORAM : D.B.BHOSALE, J.

DATED : 6TH JULY, 2007.

P.C.:

1. Heard Mr Palwe, learned counsel for the appellants.

. The appellants have impugned the judgment of the appellate court dated 14-10-1994 by which the appeal filed by the respondents-defendants has been allowed and the judgment and decree dated 13-7-1987 passed in regular Civil Suit no. 351/1974 by the trial Court has been set aside. The suit was filed by the appellant-plaintiff for declaration to the effect that the sale deed in respect of the suit property between defendant no.1 and defendant no.2 dated 28-11-1956 is null and void and is not binding on the plaintiff. He also claimed share in the suit property to the extent of 82/180. Mr. Palwe, learned counsel for the appellant, submitted that the

judgment and decree in regular civil suit no. 251 of 1943 would not operate res-judicata and for that purpose he took me through relevant discussion in the judgment of the Court below. I perused the relevant paragraphs and, in my opinion, the appellate Court has considered this question in proper prospective and has rightly answered the issue affirmatively. The appeal court after having considered the entire material on record has held that the judgment and decree in R.C.S.No.251 of 1943 between the same parties in respect of the same subject matter operates res judicata. It further appears that the suit has been dismissed also on the ground of limitation. Considering the findings of facts recorded by the Courts below and as I find sufficient material on record to sustain those findings and considering extremely limited jurisdiction of this Court to interfere with the said findings in the second appeal, this appeal fails and is dismissed as such.

(D.B.BHOSALE, J)